

Colette D. Honorable  
Chairman  
(501) 682-1455

Olan W. Reeves  
Commissioner  
(501) 682-1453

Elana C. Wills  
Commissioner  
(501) 682-1451

ARKANSAS  
PUBLIC SERVICE COMMISSION  
UTILITIES DIVISION

1000 Center  
P.O. Box 400  
Little Rock, Arkansas 72203-0400  
<http://www.Arkansas.gov/psc>



John P. Bethel  
Director  
(501) 682-1794

March 31, 2011

Mr. Dan Shue  
Sebastian County Prosecuting Attorney  
901 South B Street  
Fort Smith, Arkansas 72901

RE: Underground Facilities Damage

Dear Mr. Shue:

The Pipeline Safety Office is in receipt of your letter dated March 22, 2011 concerning the damage to the Arkansas Oklahoma Gas (AOG) natural gas pipeline located at 1400 Grand Avenue in Fort Smith, Arkansas.

In your letter, you ask if the Pipeline Safety Office maintains reports that could aid in the prosecution of this action. In accordance with the Arkansas Gas Pipeline Code, §191.5(d):

*In addition to the requirements of paragraph (a) of this section, all gas related incidents which result in personal injury requiring out-patient treatment and/or property damage, including cost of lost gas, totaling \$5,000 but less than \$50,000, shall be telephonically reported to the Commission as required by paragraph (c) above.*

A copy of the telephonic report is attached. Also, an email from Mr. Bob Neissl with AOG has been included stating the facts of this incident.

Regarding your question as to whether this office knows of an individual who would have sufficient knowledge of the facts constituting the offense, Mr. Michael Callan, President, Arkansas Oklahoma Gas Corporation, was contacted and has agreed to provide the affidavit or other documentation that you might require. In addition, you responded that you need this affidavit for a criminal prosecution. However, we are requesting civil sanctions be assessed pursuant to Ark. Code Ann. § 14-271-104. If this office may be of further assistance to you, please feel free to contact me at 501-682-5716.

Mr. Dan Shue  
March 31, 2011  
Page 2

Respectfully

A handwritten signature in dark ink, appearing to read "Robert E. Henry". The signature is fluid and cursive, with the first name "Robert" being more prominent.

Robert E. Henry  
Chief, Pipeline Safety

Attachments

cc: Mr. Michael Callan  
Mr. John Bethel  
Mr. Robert Booth

## Bobby Henry

**From:** Bob Neissl [BNeissl@aogc.com]  
**Sent:** Monday, January 31, 2011 12:59 PM  
**To:** Bobby Henry  
**Subject:** RE: line hit

Bobby,

I think the line break you are referring to occurred on Thursday, 1/27/2011 at 1:59 p.m.

Here are the details:

The service line was broken by Burgess Construction Company while doing water line work for First Baptist Church at 1400 Grand Avenue.

The line had been located correctly by AOG.

The line was a 4 inch service line operating at 25 psig.

The root cause analysis determined hand tools were not used by the excavator as required.

The gas loss was approximately 66 MCF.

Two day care facilities were evacuated by police or fire due to gas odor in the buildings.

The occurrence did not meet incident reporting requirements.

If you need any further information, please contact me.

Bob Neissl

**From:** Bobby Henry [mailto:bobby\_henry@psc.state.ar.us]  
**Sent:** Monday, January 31, 2011 8:53 AM  
**To:** Bob Neissl  
**Subject:** line hit

Good morning Bob. Could you fill me in on the details of the Friday morning line hit on Grand Ave?

Robert Henry  
Chief of Pipeline Safety  
Arkansas Public Service Commission  
1000 Center Street  
P.O. Box 400  
Little Rock, AR 72203-0400  
Phone: 501-682-5716  
Cell: 501-837-5679  
Fax: 501-682-5340  
Email: [bobby\\_henry@psc.state.ar.us](mailto:bobby_henry@psc.state.ar.us)  
Web: [www.arkansas.gov/psc](http://www.arkansas.gov/psc)

3/30/2011



## Accident Log Form

Accident Date:	1/27/2011	Company:	Arkansas Oklahoma Gas
Accident Time:	13:59	Line_Type:	didtribution
Notify Date:	1/27/2011	Report By:	telephonic
Notify Time:	16:24	Received by:	Robert Booth
Injuries:	0	Investigator:	no
InPatient Injuries:	0	Suspense date:	
OutPatient Injuries:	0	Received date:	
# of Fatalities:	0	One-Call Notified:	<input type="checkbox"/>
Rspa form:	no		
Damages:	<\$5000.00		
Report Type:	telephonic		
Jurisdiction:	State		
Location:	100 Grand Avenue, Fort Smith		
Accident Description:	Water contractor cut a 4" service operating at 25 PSIG. Two day care facilities have been evacuated by police department. Line was marked correctly.		



## ARKANSAS OKLAHOMA GAS CORPORATION

**CUSTOMER SERVICE**  
PHONE: 479-784-2000  
FAX: 479-782-1881

**OPERATIONS**  
5030 SOUTH "S" STREET  
FORT SMITH, AR 72903  
FAX: 479-452-7602

**EXECUTIVE OFFICES**  
115 NORTH 12th STREET  
P. O. BOX 2414  
FORT SMITH, AR 72902  
PHONE: 479-783-3181  
FAX: 479-784-2095

April 11, 2011

Mr. Daniel Shue  
Prosecuting Attorney  
Sebastian County Courts Building  
901 South B Street, Suite 209  
Fort Smith, AR 72901

RE: Underground Facilities Damage

Dear Mr. Shue:

Enclosed is the executed Affidavit of Arkansas Oklahoma Gas Corporation ("AOG") employee, Randy McRoberts. Mr. McRoberts is the Manager of Safety & Training for AOG and has personal knowledge of the incident of January 27, 2011 involving Burgess Construction.

Please feel free to contact me if you need anything further.

Thank you.

Sincerely,

**ARKANSAS OKLAHOMA GAS CORPORATION**

Michael J. Callan  
President

T: 479/783-3181, Extension 2265  
E: [mcallan@aogc.com](mailto:mcallan@aogc.com)  
F: 479/784-2095

MJC:lap

Enclosure – Affidavit

cc w/encl: Mr. Robert Booth  
Manager-Gas & Water Section  
Arkansas Public Service Commission  
P. O. Box 400  
Little Rock, AR 72203

**AFFIDAVIT OF RANDY MCROBERTS**

STATE OF ARKANSAS                     )  
   ) ss.  
COUNTY OF SEBASTIAN                )

BEFORE ME, the undersigned authority, came and appeared

**RANDY McROBERTS**

who, being by me first duly sworn, deposes and says as follows:

1. I am the Manager of Safety and Training for Arkansas Oklahoma Gas Corporation ("AOG"). As such, I am making this Affidavit based on my personal knowledge and observations.

2. On January 27, 2011, AOG was notified that a four-inch, medium pressure, natural gas pipeline had been damaged at 1400 North "E" Street, Fort Smith, Arkansas.

3. AOG personnel were dispatched to repair the damage. Upon arrival at the scene, AOG personnel discovered the pipeline in question had been broken by Burgess Construction Company.

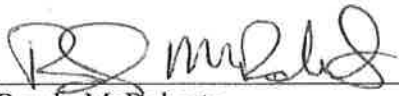
4. My review of AOG records indicated Burgess Construction had contacted Arkansas One-Call on January 7, 2011 to request a location for all underground utilities.

5. In response to the request from Arkansas One-Call, AOG personnel located and marked the natural gas pipeline in question on January 10, 2011.

6. At approximately 3:30 p.m., on January 27, 2011, I was dispatched to investigate the incident. Upon arriving at the scene, I was able to determine that AOG's marks denoting the location of the pipeline were visible, accurate, and in compliance with Arkansas law.

7. I was also able to determine the pipeline was broken by a backhoe, and that hand tools were not used to avoid damaging the natural gas pipeline.

FURTHER AFFIANT SAYETH NOT.

  
Randy McRoberts

Sworn and subscribed to before me this 6 day of April, 2011.

  
Notary Laura Parker #12349849

My Commission Expires:

9-1-16



**DANIEL SHUE**  
PROSECUTING ATTORNEY  
TWELFTH JUDICIAL DISTRICT  
SEBASTIAN COUNTY COURTS BUILDING  
901 SOUTH B STREET, SUITE 209  
FORT SMITH, ARKANSAS 72901  
GENERAL OFFICE 479-783-8978  
479-784-1554 (Restitution) 479-783-1069 (Hot Checks)

May 17, 2011

VIA FACSIMILE 784-2095

Mr. Michael J. Callan  
President  
Arkansas Oklahoma Gas Corporation  
P.O. Box 2414  
Fort Smith, AR 72902

Re: State of Arkansas vs. Burgess Company, CV-2011-798-VI

Dear Mr. Callan:

I want to acknowledge receipt of your fax of May 13, 2011, and I can relate to you that the \$500.00 civil penalty has already been turned over to my office. Obviously, this being a case of first impression in this jurisdiction, it sets the precedent for future cases. I intend to contact every company that is victimized by one of these violations to obtain their advice and consent before final disposition. It was an honor to work with you and your company in this matter and I must state that the professionalism demonstrated and patience displayed were appreciated.

SINCERELY,

A handwritten signature in black ink, appearing to read 'D. Shue', written over a horizontal line.

DANIEL SHUE  
PROSECUTING ATTORNEY

DS:js